جاههة نايف الهربية للهلوم الأهنية كليـــة الدراســـات العليــــا قسم العدالة الجنائية



القرارات الجنائية الطبية لهيئة كبار العلماء

جمع ودراسة وتأصيل

بحث مقدم استكمالاً لمتطلبات الحصول على درجة الماجستير في قسم العدالة الجنائية _ تخصص التشريع الجنائي الإسلامي

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إشـــراف معالي الشيخ د. محمد بن سعد الشويعر

> الرياض ١٤٢٤هـ ـ ٢٠٠٣م

جمع ودراسة وتأصيل

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Criminal Justice

The Islamic Jurisprudence of Crime

The Resolutions of the Grand Scholars Board in the field of medical criminology

Collected & Studied from Authentic Sources

Mohammed Nasser

Mohammed Al-Mosaad

Dr. Mohammed Saad Al-Shoeir

Dr. Mohammed Saad Al-Soeir ervisor..

Dr. Abdullah Suliman Maneia Member.

Dr. Mohammed Abdullah Waald Mohammdan Member.

H. corresponding to 29/3/2003 AD

As there is extensive knowledge related to the rules of body violation and the commitment of the doctor to interfere in time to save the patient. Developments of surgery techniques of possible benefit to

apprehend criminals raise questions about resolutions on crime issued by the Grand Scholars Board.

The importance of this research is based on the following: <u>First:</u> The need of the people, the judges and the doctors to know the Resolutions of the Grand Scholars related to the crimes that the medical field deals with.

<u>Second:</u> No research has been done into the field of medical criminology before.

<u>Third:</u> to shed light the contemporary scholars on the topics that the research included.

- 1-To shed light on the comprehensive aspects of Islamic law.
- 2- Collect the resolution of the Grand Scholar Board in the filed of medical criminology in the Kingdom of Saudi Arabia issued by consensus and majority.
 - 3-Study the original sources that the resolutions based on, the aspects that were taken into considerations.
- 1- To know if the development of medical criminology has effects on decisions about these resolutions.
 - \mathbf{Q} :1- What are the resolutions of the Grand Scholars Board in the field of medical criminology ?
 - Q: 2- Are these resolutions based on the current practice in medical criminology?
 - Q: 3- Are these resolutions based on Abu Hanafi doctrine?
 - Q: 4- Do the Grand Scholars Board take into consideration that the formal legal opinion (Islamic Law) changes over time?
 - Q: 5- Are these Resolutions mandatory for judges, doctors and the Islamic medical committee?

Research Methodology is based on the precedent and inductive and analytic method related to the resolutions of the Medical Criminology Board. The following sources were used:

1- The original sources of three doctrines.

- 2- Study and research related to the Resolutions.
- 3- Periodicals, pamphlets and articles related to the Resolutions.
- 1- It is not permissible to stitch amputated hand back on in cases of retribution.
- 2- It is permissible to stitch the amputated hand back on in cases of sever punishment if the criminal accepts that.
- 3- It is permissible to use anesthetic if the criminal accepts that.
- 4- Transplantation is permissible from the person to his own body.
- 5- Transplantation is not permissible from one person to another.
- 6- Autopsy is permissible if the purpose is to investigate a criminal case of the crime case or uncover an epidemic disease or for educational purposes.
- 7- It is not permissible to perform an operation on the patient without his permission or the permission of his custodian if the patient is underage.
- 8- If the operation is harmful to the wife, her consent alone is required, if it isn't harmful then her husband's consent is required.
- 9- Family planning and contraceptives are prohibited unless there is a specific need or if the wife's life will be endangered without them.
- 10- It is prohibited to convert the human race from male to female and vice versa.
- 11- It is permissible to disconnect intensive care equipment if doctors confirm that the brain of the patient is already dead, but the patient can not be judged dead if the heart and the respiratory system still function and no signs of death have appeared.

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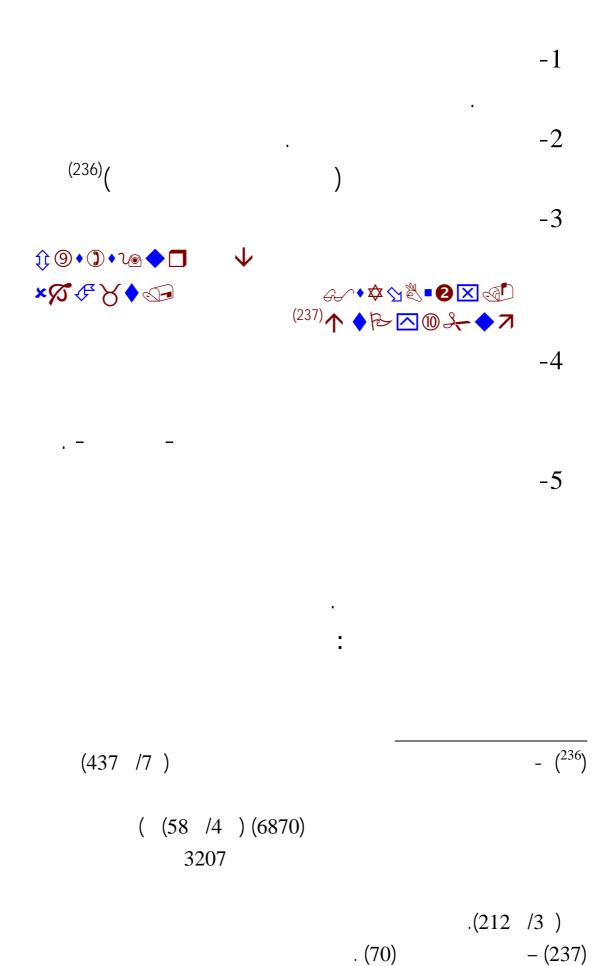
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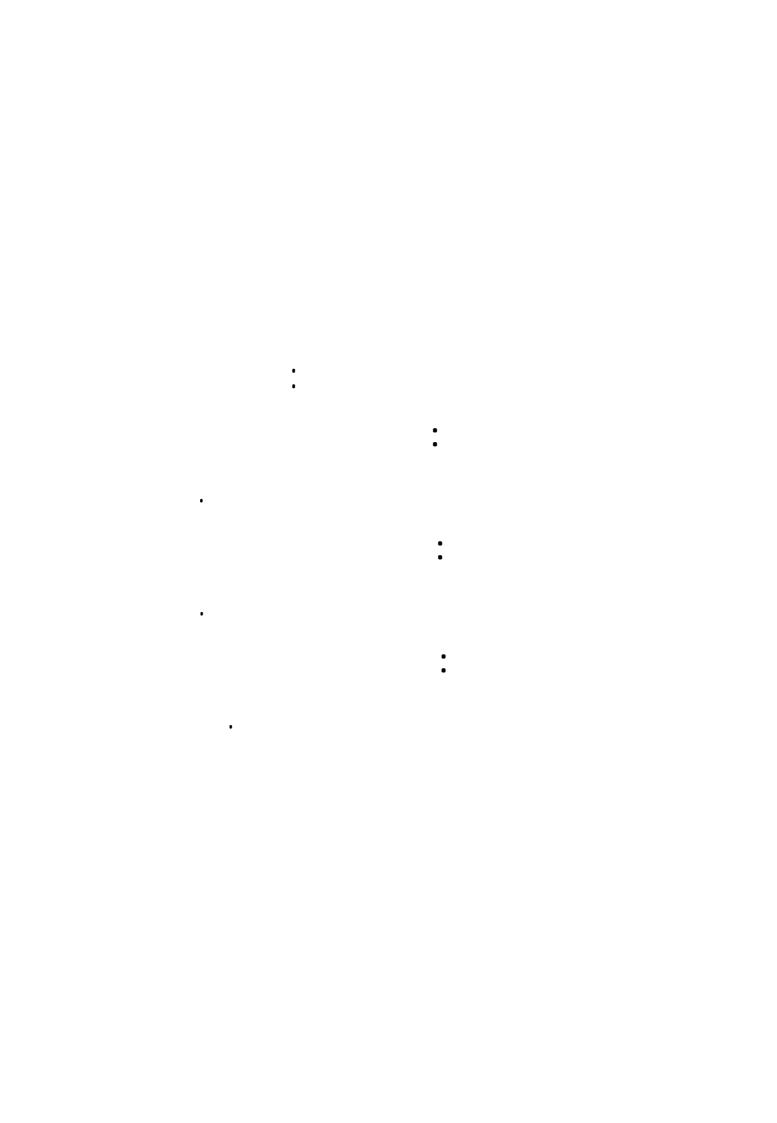
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 \mathbb{R}^{2} \mathbb{R}^{2} $\mathbb{R} \leftarrow \mathbb{N}_0 \oplus \mathbb{A} \oplus \mathbb{A}$ (291) 个 全分伊护 中区⑩分分公置+区 ©\$\$□\$\$ I⊠⊇7\$\$ ×\$\$ €\%\$®®®\$\$ **☎**♣×□**७**७०००० **♥□区Ⅲ0**炒Ⅲ△米 **€₩**₹♪ ♦∂□←◎■**व2→**•≈ •• ↔ ♦₺ **८**ᢤ■**व३८**□Ш (292)

. (13-12) -(290)

. (70) -(²⁹¹)

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. (359)((...

1413/3/12 (173) - (³⁵⁹) . (9)

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            . (493 )
           (168 / 1409/1 /5 )
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( ) - (<sup>374</sup>)
.169-168 1409/1 /5
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- (<sup>415</sup>
                                                 . (14)
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   . (179 /6)
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(189) / - (⁴¹⁸)
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. (9-8) - (⁴²²) . (31) - (⁴²³)

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1413/3/18 1413/2/24

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. (59-58) - (444)

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Ψ: -1 ⇗ፂ◩⇙٫⇼✠☵9←᠙⇧◩◆▢): -2): **\\$**7**!\@\\\\\\ ™**□←**®**•**2®***&* & **←■**□**オ0下**②•□ (458)((457) - (456) . (119) . (7) -(457)- (458) (2216/5) (5587) (2125). (1678 /3)

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> . (293 /5) / - (459) . (422 /5) / - (460)

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         . (469 /4)
                                              - (475)
```

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. ⁽⁴⁷⁶⁾**((**

: :)): -

. ⁽⁴⁷⁷⁾(()) : -

. (221 /4) / - (476) . (325 -322 / 1) / - (477) . ⁽⁴⁷⁸⁾(()):

. (479)((

- (478) . (266)

. (859-858 /2) - (479)

```
. (480)((
                         : )):
                                    . <sup>(481)</sup>((
                         : )):
.(482)((
                                )):
                                 . <sup>(483)</sup>((
                                   )):
                                        . (484)((
                    (728 -727 /6) /
                                                 - (480)
         . (357 /2)
                                                 - (481)
          . (327 /2)
                                                 - (482)
      . (425 / 6 )
                                                 - (483)
```

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)):
(485)((
                                                 -1
                                                 -2
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                                                 -4
                                                 -5
                                                 -6
```

- (484) . (71) - (485) . (40) (176)1413/3/17 -1))): - (486)

. (119)

-2

: 1409 (6)

> . (7) - (487) . 245 - (488) 1413/3/17 (176) - (489) (10) . (119) - (490)

```
):
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\Psi:
(493)
                        -1
               . (7)
                      - (491)
                      - (492)
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                      - (493)
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                  1409
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  370 49
                  174
                     1420
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(17)

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. **(181)**)):

1417 12

1416/6/15 (11/627) 1416/6/15 (11/621)

(62) (99)

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<sup>(494)</sup> ((
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                                                )):
                                           <sup>(495)</sup>((
<sup>(496)</sup>((
                                             )):
                                          )):
                          . (497)((
                                               (181)
                                                                 - (494)
                        1417/4/12
                                                                     .(11)
  . (400 /15 ) :
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                                                                  - (496)
       . (304 ) :
                                                                 - (497)
                                                       . (730 )
```

)): -1 ⁽⁴⁹⁸⁾((...): **))** :)): ((-2 -3 -5 - (498) (634 3) (920) . (515 / 15) (7014)

- (499)

. (635 / 3) (921) :

-6 ψ (501) (((500) ↑ F D & O O W & & \alpha \alpha)): ⁽⁵⁰²⁾((**))**: . (503)((- (500) (29)(47): - (501) (106): . (151) : (367 /3): - (502) .(98 /2):

- (503)

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(191 -186) - (⁵⁰⁴)
) (545 /2 /3) (49-48
. ()
. (22 /2):

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(505)
        (506)
                                              -1
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                                . (507)
  (508)
                                             - (505)
(56
    ):
                      /
                         . (64-37)
                                             - (506)
                                 . (13 /2):
. (56):
                                             - (507)
```

. (107) : - (508) (181) - -

.(190)

)):

1419/4/2

1416/9/4

(26/3796/9745) 1417/7/28) . 1417/7/28 (26/3796 ;

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1419/4/6 (190) -(509)

. (12)
481 /1 - (510)

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.(511)

. (512))):

. - (512)

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.⁽⁵¹³⁾(()): -

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-(513)

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> 541-539 /2) - (514) (-(515)

. (682 /2)

. ⁽⁵¹⁶⁾(()):

· ⁽⁵¹⁷⁾(()): -

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-(516) . (710 /2)

) -(517) . (720 /2

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. (518)((
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...(520)((
                )):
                             - (518)
  . (207-206 /1 /
                   . (34)
                             - (519)
     . (111 )
                             -(520)
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· · ⁽⁵²¹⁾((**))** :

-(521)

. (484-483 /1

. (522)((
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. (523)((
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.<sup>(524)</sup>((
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() -(523) (445-444 / 1) -(524) . (568 /2)

. (525)((**))** : . (526)(()): . ⁽⁵²⁷⁾(()): . (528)((

- (525)
. (586 /2)
- (526)
. (603 /2)
- (527)
. (620 /2 -(528)

(740 /2 / 1408)

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1419/4/6 190 : -

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 1408
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1419/4/6 (190) - (529)

. 1986/7/3 (5)

. (530)(((3/5)17 : -: 1407/2/13 :)) 16 11 1407 13-8 : 1986()

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. (109) -(532)

(3/5)17 : /
260

14

(533) 1990

26/3796 . 1417/7/28

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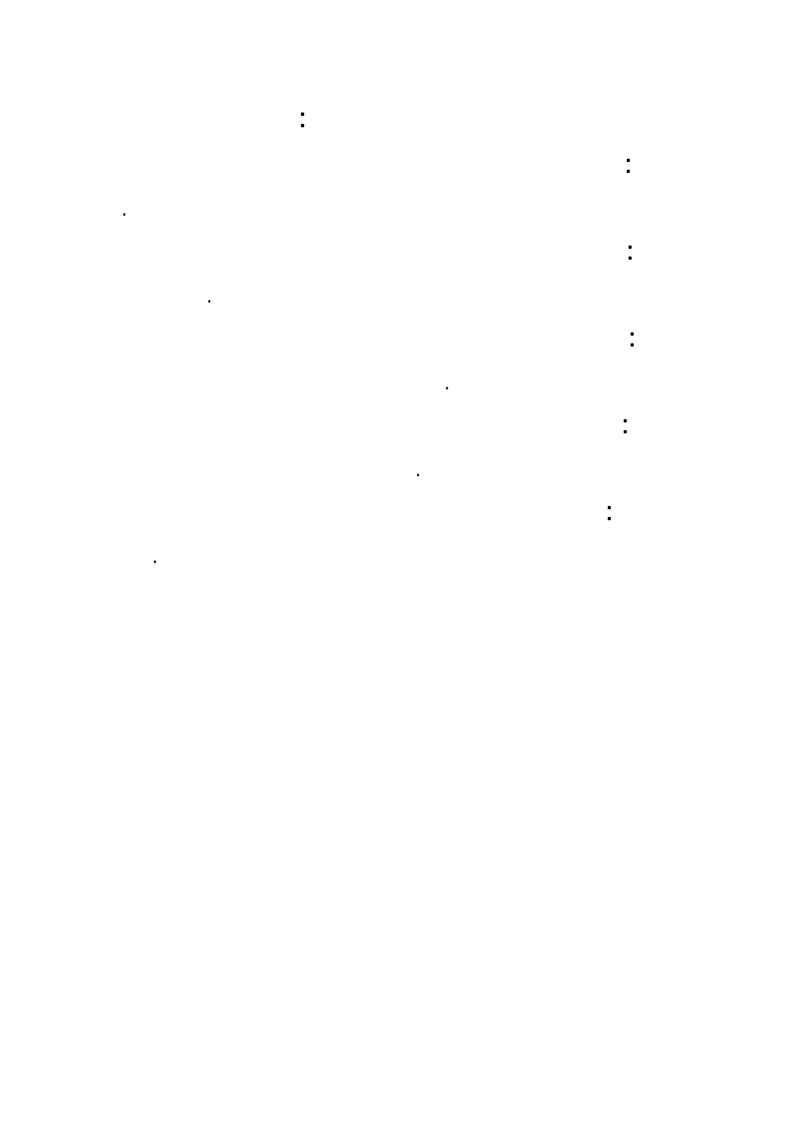
-5

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المصادر والمراجع
                                        .1
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             1405 (
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                   1414
1373
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        1416 ( )
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	()	.5
1392	()	.6
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		14	117	•		()	.21
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		1413	•		19	82		.23
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					14	06		.26
				1412	()		.27

1418		.28
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	() ()	
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	. ()
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	1408	
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		.35
	1402 ()	
		.36
	1400 ()
1406 ()		.37
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	. 1417	

		1404							.39
							1400		.40
			()					.41
									.42
	•				1419)			
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	•					1413			
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              (2953)
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                            .( 1407
  . (7 10 4 2 1)
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/5 1 / 4 2 /3 1 /2 )
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```

الفهارس

رابعاً: فهرس الأماكن

14		.1
14	1	.2
238		.3
132 115 111 86 73 72 59 58		.4
281 277 273 217 194 191 135		
173 171		.5
240 225 191 181 76 75 43 30		.6
12		.7
256 196 143 135 134 108 91		.8
276 274 260		
281 277	()	.9
221 220		.10
14	/	.11
143		.12
12		.13
217 135 133 116 115 109 86		.14
259 258 257 256 221 220 219		
276		
108		.15
238 109		.16

خامساً: فهرس القرارات

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218 203	1396/4/13	(42)	.1
144	1396/8/20	(47)	.2
116	1398/10/25	(62)	.3
116 92	1399/2/7	(65)	.4
108 90 130	1402/11/6	(99)	.5
191 181	1404/5/26	(119)	.6
43 42 30 73 62 59	1406/6/17	(136)	.7
225	1407/6/20	(140)	.8
197	1413/3/12	(173)	.9
247 240 257	1413/3/17	(176)	.10
134	1417/4/12	(181)	.11

276 260	1419/4/6	(190)	.12
77	1419/10/27	(191)	.13

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219	1400/4/30	.14
108		.15
		1405/7/7
276		.16
		1408/8/24
259		.17
		1409/7/20

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277 112	1407/2/13	(3/5)17	.18
		•	
131 110		88/08/4 (1)	.19
		1408	/6/23
220	1409/5/6	(5/1)39	.20
74 59	1410/8/23	(6/9/60)	.21

191	1412/11/12	(7/5)67	.22

سادساً: فهرس الموضوعات

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76			(191)
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87			••
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94	()	:
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133	:
133	(181)
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143	(47)
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181	(119)
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196	(173)
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247	(176)
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260	:
260	(190)
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280	
282	
287	
333	
346	
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356	
361	
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377	